

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director
Metropolitan Council Office

DATE: **October 5, 2004**

RE: **Analysis Report**

Balances As Of:	<u>9/29/04</u>	<u>10/1/03</u>
<u>GSD 4% RESERVE FUND</u>	* \$13,120,468	\$17,466,000
<u>CONTINGENCY ACCOUNTS</u>		
GSD	\$50,000	\$50,000
USD	\$50,000	\$50,000
<u>GENERAL FUND</u>		
GSD	Unavailable	Unavailable
USD	Unavailable	Unavailable
<u>GENERAL PURPOSE SCHOOL FUND</u>	Unavailable	Unavailable

* Assumes estimated revenues in fiscal year 2005 in the amount of \$18,738,500.

- RESOLUTION ON PUBLIC HEARING -

RESOLUTION NO. RS2004-495 (DREAD & GILMORE) – This resolution accepts a local law enforcement block grant in the amount of \$692,975 from the U.S. department of justice to the Metropolitan Government for the benefit of the police department, the parks department, the district attorney's office, the public defender's office, juvenile court, the state trial courts, justice integration services, the sheriff's office, and the public schools, and appropriates the funds to these various departments. The participating departments will pay a total local match of \$76,997 from their respective department budgets. The police department will oversee and manage the grant. These grant funds will be allocated as follows:

- \$78,008.82 to the district attorney's office, with a local match of \$8,667.65. These funds will be used for continued employment of a grand jury case investigation worker.
- \$12,765.43 to the public defender's office, with a local match of \$1,418.38. These funds will be used to employ a social worker to assist the attorneys assigned to the juvenile division.
- \$115,174.94 to the drug court, with a local match of \$12,797.22. These funds will be used for payroll and operational costs of the Drug Court residential program.
- \$38,883.87 to justice integration services, with a local match of \$4,320.43. These funds will be used to upgrade JIS hardware and software.
- \$97,887.22 to the sheriff's office, with a local match of \$10,876.36. These funds will be used to employ a community outreach director and purchase security equipment.
- \$224,306.65 to the police department, with a local match of \$24,922.96. These funds will be used for training of police officers and support personnel.
- \$88,454.93 to the public schools, with a local match of \$9,828.33. These funds will be used to extend the installation of closed-circuit television cameras into additional middle and high schools, and to install a remote access system for police monitoring of the schools in the event of an emergency.
- \$13,527.56 to the parks department, with a local match of \$1,503.06. These funds will be used to purchase and install laptop computers in park ranger patrol vehicles.

– RESOLUTIONS –

RESOLUTION NO. RS2004-460 (CRAFTON & RYMAN) – This resolution authorizes O'Charley's, Inc., to install and maintain an aerial encroachment/sign at 110 Coley Davis Court in the Bellevue area. O'Charley's has agreed to indemnify the Metropolitan Government for any claims arising from the installation or maintenance of the sign, and will be required to furnish a certificate of public liability insurance naming Metro as an insured party.

RESOLUTION NO. RS2004-482 (GILMORE, NEIGHBORS & OTHERS) – This resolution approves an annual grant in the amount of \$50,585 from the state arts commission to the Metro arts commission for the current fiscal year. The funds will be used to make grants to not-for-profit organizations. There is a required local match in the amount of \$50,585 to be provided from the Metro arts commission budget. These funds are provided in addition to the other funds provided in the operating budget for arts grants. The term of the grant is from July 1, 2004, through June 30, 2005.

RESOLUTION NO. RS2004-525 (LORING) – This resolution authorizes the mayor to enter into a supplemental licensing agreement with the Nashville and Eastern Railroad Corporation to increase the

rental fee paid for the sewer line at M.P. 7.1 O.H. in the railroad right-of-way. The Metropolitan Government has entered into numerous of these agreements with the railroad to allow Metro water and sewerage services to construct water and sewer lines in the railroad right-of-way. This license agreement is in perpetuity with an annual license fee that increases every three years based upon the national consumer price index average. This resolution approves an increase in the annual rent from \$78.65 to \$84.16.

RESOLUTION NO. RS2004-526 (BRILEY) – This resolution extends the time for the Ethics Review Task Force to make its report to the Council. The task force was established by the Council by Resolution No. RS2003-113, with an initial expiration of June 30, 2004. The expiration date was extended until September 30, 2004 by Resolution No. RS2004-298. The task force has been meeting on a regular basis, but needs some more time to make a final report to the Council. This resolution extends the reporting deadline to December 31, 2004.

RESOLUTION NO. RS2004-527 (NEIGHBORS & COLE) – This resolution approves a grant in the amount of \$121,495 from the state department of labor and workforce development to the Nashville career advancement center (NCAC) for programs and services to develop surgical first assistance. These grant funds will be used to train 17 surgical technologists and perioperative nurses. This training will be coordinated through St. Thomas Health Services and the program will utilize Nashville State Technical Community College for some of the classes. There is currently a shortage in the Middle Tennessee area of nurses with perioperative certification. These funds will be used to pay for books, tuition, and training materials for the certification classes, as well as partial funding of a clinical education coordinator. NCAC will retain \$12,149 of the grant funds to cover administrative costs. The term of this grant is from August 30, 2004 through June 30, 2006, with a possible one year extension.

RESOLUTION NO. RS2004-528 (ISABEL) – This resolution initiates the rezoning of 17.34 acres from RS7.5 to RS20, property located west of Dickerson Pike and along the north side of Pine Ridge Drive, for the purpose of waiving the zoning application fee. The Metropolitan Zoning Code provides that zoning application fees may be waived for “large area rezonings initiated by the planning commission or metropolitan council to implement the general plan.” The department of law has recently interpreted this Code section to mean that zoning application fees may not be waived upon request of individual members of Council, but only by the Council as a body. Ordinance No. BL2004-409, currently on first reading, would amend this Code section to allow individual members of council to waive zoning application fees in certain circumstances.

The Council Office is of the opinion that this rezoning does not meet the Code requirement of a “large area rezoning”, nor does it further the general plan. The property in question consists of one 17-acre parcel of property. This Code provision was intended to allow the Council to waive zoning application fees for multiple parcel rezonings in an effort to implement the general plan. The Council Office has been informed by planning staff that RS20 would not further the general plan for this area.

- BILLS ON SECOND READING -

ORDINANCE NO. BL2004-345 (MURRAY & MCCLENDON) – This ordinance amends the Metropolitan Code of Laws to require that the front entrances of new single-family homes face a public or private street. This ordinance would prevent constructing homes on narrow lots that face another home, instead of facing the street. This ordinance would not apply to single-family homes located in agricultural or residential zoning districts with a minimum 80,000 square foot lot, nor would it apply to commercial areas.

ORDINANCE NO. BL2004-373 (BRILEY) – This housekeeping ordinance simply renumbers an incorrect section number in a prior ordinance. After the enactment of Ordinance No. BL2004-245, which amended the Metro Code to provide public notification requirements for Metro boards and commissions, it was brought to the Metropolitan Clerk's attention by the codifier of the Metro Code that one of the sections needed to be renumbered. This ordinance simply corrects the section number.

ORDINANCE NO. BL2004-374 (WILLIAMS) – This ordinance amends the Metropolitan Code of Laws to require annual reporting on the implementation of the Metro Neighborhood Traffic Management Program. Pursuant to this ordinance, beginning November 1, 2004, the department of public works and the police department will be required to file an annual report with the Council providing information regarding the progress of the Metro Neighborhood Traffic Management Program and the results of all traffic calming efforts. The annual report is to include the following information:

1. The streets involved in the neighborhood traffic management program, their sponsoring neighborhood association, and councilmanic district in which they are located;
2. Current neighborhood status in the program;
3. Their ranking by year entering the program, average speed, number of accidents, and established priority;
4. Breakdown of expenditures and methods regarding engineering, education, and enforcement;
5. Number of new applicants reviewed and number of applicants pending review for entry into the program;
6. Number of projects removed for public health or safety reasons; and
7. Number of projects removed by citizen petition request.

ORDINANCE NO. BL2004-375 (WHITMORE) – This ordinance approves a license agreement between the Metropolitan Government and the Motion Picture Licensing Corporation (MPLC) relating to the use of motion pictures at Metro community center facilities. MPLC, based in Los Angeles, CA, is an independent copyright licensing service authorized by major Hollywood movie studios to issue "umbrella" licenses to nonprofit, business, and government organizations for the public performance of home videocassettes and DVDs. MPLC currently includes 78 motion picture studios and production companies as part of its umbrella license. According to federal copyright law, videocassettes and DVDs are for home use only unless a license is obtained to show them elsewhere, regardless of whether a fee is charged to show the film. Thus, Metro needs a license to show films at community centers in order to comply with federal law.

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ORDINANCE NO. BL2004-375 (continued)

Pursuant to this agreement, Metro will have a license to show videocassette movies and DVDs at Metro parks community centers. The board of parks and recreation currently operates 25 community centers in Davidson County. The term of the license agreement is for one year, but is automatically renewed on a year-by-year basis until 2009 unless terminated. The fee for the license is \$6,600 per year, which may be increased based upon the consumer price index. Amendments, renewals, or extension of the terms of this agreement must be approved by resolution of the Council.

Metro has entered similar agreements in the past with BMI, ASCAP, and SESAC regarding the public performance and use of music at Metro facilities.

ORDINANCE NO. BL2004-376 (TYGARD) – This ordinance authorizes the director of public property administration to accept an easement encumbering property located at 925 Morton Mill Road in connection with a department of water and sewerage services project.

ORDINANCE NO. BL2004-377 (CRADDOCK) – This ordinance authorizes the director of public property administration to accept an easement encumbering property located at 311 Heritage Court in connection with the Heritage Court stormwater project.

ORDINANCE NO. BL2004-378 (BRADLEY & GILMORE) – This ordinance authorizes the Metropolitan Government to enter into a participation agreement with Centex Homes to provide public sewer service to Lakeside Cove. Centex Homes is planning to provide a public sewer extension through construction of a sewerage pump station at Percy Priest. Since the operation and maintenance of the pump station will increase the cost to Metro of providing sewer service to the development, Centex has agreed to pay \$150,000 to fund the additional costs. This amount is to be deposited as a maintenance fee in the water and sewer revenue fund. Amendments to this ordinance may be approved by resolution of the Council.

- BILLS ON THIRD READING -

ORDINANCE NO. BL2004-294 (GREER) – This ordinance abandons an alley from the east margin of 8th Avenue South to 140 feet east of 8th Avenue South, between Lynwood and Alloway Streets. This closure has been requested by Kevin King on behalf of the 1512 Company, the adjacent property owners. Metro will retain all easements. This ordinance has been approved by the planning commission and the traffic and parking commission.

ORDINANCE NO. BL2004-302 (GREER) – This ordinance, as amended, would make it a violation of the Metro Code for a dog owner to fail to cleanup and remove any excrement left by their dog on public or private property. This ordinance does not apply to the dog owner's own property.

ORDINANCE NO. BL2004-341 (BRADLEY) – This ordinance, as amended, authorizes the director of public property administration to acquire an easement, by negotiation or condemnation, to property located at 3461 Hamilton Church Road to permit the construction of water mains, sanitary sewers, and stormwater improvements for the Off-site Tillman subdivision. The estimated cost for this easement is \$1,500, and is to be paid from the water and sewer extension and replacement fund. The acquisition of additional easements for this project may be approved by a resolution adopted by the Council.

ORDINANCE NO. BL2004-346 (MCCLENDON) – This ordinance, as amended, amends the Metropolitan Code of Laws to set criteria regarding the types of permissible materials that may be used in the construction of fences. The Code currently provides that fences are to be constructed in accordance with the building code. The Code designates the type of fences that are prohibited, but does not include the type of materials that may be used in the construction of fences. Fences that are prohibited by the Code include electric fences, the use of barbed wire below six feet on a fence, and fences containing barbs or sharp projections on top of the fence if the fence is located within five feet of the property line.

This ordinance amends the property standards section of the Code to provide that fences may only be constructed using the following materials:

1. Woven wire or chain link.
2. Wrought iron.
3. Wood, vinyl, steel, or aluminum slats of no more than 1" by 6" in width hung vertically, horizontally, or diagonally between steel, wood, or vinyl posts no further than ten feet apart.
4. Masonry consisting of brick, concrete block, split-face block, dry-stack stones, or stones and mortar.
5. Plastic or other synthetic material treated in a manner to maintain the fence in good structural condition and with an appearance that is aesthetically compatible with the type of fence it represents.
6. Decorative-type split rail or dry-stack stone may be used for decorative fences.

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ORDINANCE NO. BL2004-346 (continued)

The ordinance further provides that metal fences must be constructed of new materials manufactured and/or treated in a manner to prevent rust or corrosion. Wood fences must be painted, stained or preserved in a manner to maintain the fence in good structural condition. This ordinance expressly does not apply to temporary construction fencing, temporary tree protection fencing, temporary festival fencing, prison fencing, and to any fence located within the AR, AG, R80 and RS80 zoning districts.

ORDINANCE NO. BL2004-347 (GILMORE) – This ordinance approves a contract between the state department of children’s services (DCS) and the juvenile court to provide juvenile detention services for children in the custody of DCS. Pursuant to this contract, the juvenile court will provide temporary short-term detention services for children under DCS custody who have been placed in detention. The juvenile court will be reimbursed \$125 per day per child not to exceed \$5,000 per year. The detention services to be provided by the juvenile court include room and board, education services, and case management and coordination. The term of the contract is from February 1, 2004, through June 30, 2008. The maximum liability of DCS under the contract is \$25,000 over the life of the contract.

ORDINANCE NO. BL2004-348 (HAUSSER) – This ordinance authorizes the director of public property administration to acquire easements to property for curb and gutter improvements, sidewalk construction, and the planting of a grass strip from Kirkwood Avenue to Clayton Avenue. Property interests are to be acquired for property located at 1000 Clayton Avenue, 2909 12th Avenue South, and another parcel located on 12th Avenue South identified only by parcel number. This ordinance provides that future property interests for this project may be acquired by resolution of the Council receiving 21 affirmative votes. Funding is available for this project from the GSD multi-purpose improvement bonds of 2002.

ORDINANCE NO. BL2004-350 (JAMESON) – This ordinance amends the Metropolitan Code of Laws to repeal the existing ordinance prohibiting the operation of pinball machines by minors. The Code currently prohibits owners of pinball machines from allowing persons under the age of 18 to play pinball machines or loiter near machines. This ordinance has been part of the Code for many years, presumably because pinball machines were once often used as gambling devices. However, the primary use of pinball machines today is simply for amusement, not illegal activity.

ORDINANCE NO. BL2004-351 (DREAD) – This ordinance, as amended, amends the Metropolitan Code of Laws to provide for a taxicab passenger’s Bill of Rights. The taxicab bill of rights has been adopted in major tourist destination cities such as New York City and Las Vegas. The transportation licensing commission has already adopted a version of the taxicab passenger’s bill of rights. This ordinance simply codifies the bill of rights with some minor changes and additions. Pursuant to this ordinance, taxicab passengers have the following rights:

1. A professional driver who is licensed and knowledgeable about major routes, destinations, and attractions in Nashville and Davidson County;
2. A driver who knows and obeys all traffic laws and ordinances related to taxicabs;

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3. A driver who speaks and understands English and is courteous providing passenger assistance as well as a safe ride;
4. A quality taxicab that is mechanically free of problems and is clean both in the passenger areas as well as the trunk area;
5. Smoke and incense-free air while in the taxicab;
6. A silent trip without the driver engaging in personal wireless telephone calls;
7. Air conditioning and heat upon request;
8. Direct the destination and the route to be traveled;
9. The right to refuse to tip; and
10. A receipt upon request.

This ordinance requires that the above rights be posted in each taxicab in plain view of all passengers effective December 1, 2004.

ORDINANCE NO. BL2004-352 (COLEMAN) – This ordinance amends the Metropolitan Code of Laws to require all Metro departments, boards, and commissions to develop a Title VI implementation plan and to submit annual compliance reports. Title VI of the Civil Rights Act of 1964 prohibits organizations and agencies that receive federal funds from discriminating on the basis of race, color, or national origin. Since The Metropolitan Government receives federal funding for various government programs, Metro must comply with the provisions of Title VI. This ordinance would require each Metro department, board, commission, and agency to develop a Title VI implementation plan. The ordinance further would require such departments, boards, commissions, and agencies to submit annual compliance reports and implementation plan updates to the director of personnel at the end of every fiscal year. The annual report is to be distributed to the mayor and to each member of council. The ordinance provides that federal funds should be used to the extent legally available to cover any increased costs incurred by departments, boards, and commissions in developing the plan and preparing the report.

ORDINANCE NO. BL2004-353 (JAMESON) – This ordinance amends the Metropolitan Code of Laws by making various technical and procedural changes regarding burglar and fire alarm permits, violations, revocations, and appeals. This is essentially a housekeeping ordinance. Most of the changes in this ordinance reflect current procedures and practices. For example, the Code currently provides that owners of alarm systems are to give notice to the police department or fire department and obtain a permit. However, all alarm permits are handled through the Metropolitan clerk's office. Thus, this ordinance amends the code to require notice be given to the clerk. The Code also requires that a law enforcement officer or fire officer notify a permit holder if a request for revocation of the permit has been filed based on excessive false alarms. This ordinance amends this provision to reflect the current practice whereby notification of revocation requests are to be sent by the Metropolitan clerk. Finally, this ordinance would provide that a permit holder may send a designee to respond to an alarm activation.

ORDINANCE NO. BL2004-355 (WHITMORE & GILMORE) – This ordinance provides the Metropolitan Government's consent to the name change of the entities operating the football coliseum. Metro and the sports authority have previously entered into contracts with Cumberland Stadium, LP, Tennessee, LP, and Cumberland Suites, LP regarding the ownership, operation and (continued on next page)

ORDINANCE NO. BL2004-355 (continued)

leasing of the coliseum for use by the Titans. These agreements consist of a development agreement, stadium lease, and a guarantee agreement. The three limited partnerships that are a party to these agreements have decided to merge into three corporations. The surviving entities will be Cumberland Stadium, Inc., Tennessee Football, Inc., and Dream Suites, Inc. The surviving entities will acquire all of the assets and assume all of the liabilities of the respective limited partnerships. These name changes do not affect the liabilities or obligations of the Metropolitan Government regarding the coliseum in any way. The sports authority has consented to these mergers.

ORDINANCE NO. BL2004-356 (MCCLENDON) – This ordinance readopts the Metropolitan Code to include all ordinances enacted on or before May 18, 2004.

ORDINANCE NO. BL2004-357 (WILLIAMS) – This ordinance abandons an existing utility and drainage easement encumbering two parcels of property on Sherwood Drive. The department of water and sewerage services is no longer using this easement. This ordinance has been approved by the planning commission.

ORDINANCE NOS. BL2004-358 – BL2004-365 – These eight ordinances authorize the director of public property administration to accept easements for various stormwater projects in Davidson County. All of these easements to be accepted have been executed by the respective property owners and such easements are necessary for the completion of the stormwater projects.

Ordinance No. BL2004-358 (McClendon) accepts easements encumbering properties located at 734 Wildview Drive and 913 Drummond Drive in connection with the Wildview Drive stormwater project.

Ordinance No. BL2004-359 (Williams) accepts easements encumbering properties located at 3926, 3920, and 3932 Cross Creek Road in connection with the Cross Creek Road stormwater project.

Ordinance No. BL2004-360 (Shulman) – This ordinance accepts easements encumbering properties located at 4210 and 4212 Hillsboro Road in connection with the Craighead Patterson Properties stormwater project.

Ordinance No. BL2004-361 (Shulman) – This ordinance accepts an easement encumbering property located at 1808 Woodmont Boulevard in connection with the First Universal Church stormwater project.

Ordinance No. BL2004-362 (Tucker) – This ordinance accepts an easement encumbering property located at 3913 Brick Church Pike in connection with the Brick Church Pike stormwater project.

Ordinance No. BL2004-363 (Tucker) – This ordinance accepts an easement encumbering property located at 3188 Robwood Drive in connection with the Robwood Drive stormwater project.

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ORDINANCE NOS. BL2004-358 – BL2004-365 (continued)

Ordinance No. BL2004-364 (White) – This ordinance accepts an easement encumbering property located at 2032 Hickory Hill Lane in connection with the Hickory Hill Lane stormwater project.

Ordinance No. BL2004-365 (Tucker) – This ordinance accepts an easement encumbering properties located at 4800, 4744, 4740, 4736, 4732, and 4728 Indian Summer Drive in connection with the Indian Summer Drive stormwater project.

ORDINANCE NO. BL2004-366 THRU BL2004-369 (WALLACE & GILMORE) – These four ordinances authorize the Metropolitan Government to enter into participation agreements to provide public water and sewer service to three developments in Williamson County. The Owl Creek trunk and Mill Creek trunk sewer projects were constructed anticipating participation from developers in Williamson County for connection to the sewer system. These are typical participation agreements entered into by the Metropolitan Government acting through the department of water and sewerage services whereby private developers contribute a portion of the cost to extend public water and sewer service. The developers will provide funds as a contribution-in-aid of construction to be deposited into the water and sewer extension and replacement fund.

Ordinance No. BL2004-366 approves a participation agreement between Metro and CPS Land, LLC, to provide sewer service to phase two of the Bridgeton Park subdivision. CPS Land, LLC, has agreed to contribute \$52,000 in lieu of construction for a total of 26 single-family connections.

Ordinance No. BL2004-367 approves a participation agreement between Metro and CPS Land, LLC, to provide sewer service to phase three of the Bridgeton Park subdivision. CPS Land, LLC, has agreed to contribute \$60,000 in lieu of construction for a total of 30 single-family connections.

Ordinance No. BL2004-368 approves a participation agreement between Metro and Cates Kottas Development Company, LLC, to provide sewer service to the Bent Creek subdivision. The total cost of the sewerage system extensions is \$1,566,000. Cates Kottas Development Company, LLC, has agreed to contribute \$1,346,000 in aid of construction for a total of 783 single-family connections. Metro water services will pay the remaining \$220,000 toward this project.

Ordinance No. BL2004-369 approves a participation agreement between Metro and Cates Kottas Development Company, LLC, to provide sewer service to the Brookfield Estates subdivision. The total cost of the sewerage system extensions including the upsizing of the sewer line is \$72,000. Cates Kottas Development Company, LLC, has agreed to contribute \$30,000 in aid of construction for a total of 36 single-family connections. Metro water services will pay the remaining \$30,000 toward upsizing the 10" sewer line.